IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
WRIT PETITION NO.3208 OF 2006

Babu Ramu Wadar ..Petitioner.
Vs.
Smt. Yankmma Parsu Kalgutgi & Ors. ..Respondents.

Ms.Deepa Matwankar h/for S.G.Deshmukh, advs. for the Petitioner.

CORAM : J.H.BHATIA, J.
DATE : AUGUST 17, 2007.

P.C.:

1. Heard Ms.Matwankar the learned counsel for the petitioner, who is original defendant no.1. The plaintiff, who is respondent no.2(a) before this Court filed the suit for partition and separate possession in the suit house. He valued the entire property at Rs.16,000/- and on the basis of 1/8th share in the said house and for the purpose of injunction, he valued the suit at Rs.2,300/- and paid Court fee accordingly. The defendant no.1 filed an application under Section 9A of the C.P.C. contending that as per the market rates, value of the property is Rs.3,05,785/- and, therefore, it is beyond the pecuniary jurisdiction of the Civil Judge, Junior Division. He also produced a report of an architect in support of his claim. The learned IInd Joint Civil Judge, Junior Division, Ichalkaranji rejected the application observing that the defendant

no.1 had neither entered into witness box nor the architect, who has submitted the report is examined, that the architect's report is not a public document and, therefore, it can not be inferred that the value of the property is more than Rs.3 lakhs. He came to conclusion that the defendant had failed to prove that the suit is not within the pecuniary jurisdiction, which is Rs.1 lakh.

2. Admittedly, pecuniary jurisdiction of Civil Judge is up to Rs.1 lakh. Even if it is presumed that the value of the property is correctly shown by the defendant still value of 1/8th share of the plaintiff in the said property would be slightly more than Rs.38,000/-, which is within the pecuniary jurisdiction. For the purpose of deciding whether the suit is within the pecuniary jurisdiction, valuation has to be made on the basis of claim of the plaintiff and not on the basis of total value of the disputed property.

3. In view of this, I find no fault with the impugned order. Petition stands dismissed.

[J.H.BHATIA, J.]